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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EVAN WESTMORELAND, 05R2170

Plaintiff,

-v-

DECISION AND ORDER  
07-CV-0104Sr

JAMES CONWAY, Superintendent of Attica  
Correctional Facility;  
DR. RUTIGLIANO, Mental Health Unit Doctor  
Attica Correctional Facility; and  
BRIAN FISCHER, Acting Commissioner of  
Department of Correctional Services;

Defendants.

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FILED  
U.S. DISTRICT COURT  
W.D. NY, ROCHESTER  
2007 MAY 23 4:08 PM

Plaintiff, who is incarcerated in the Groveland Correctional Facility, has requested permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) and has both met the statutory requirements and furnished the Court with a signed Authorization. Accordingly, plaintiff's request to proceed as a poor person is hereby granted. In addition, plaintiff has made a motion for appointment of counsel. Plaintiff's complaint has been screened by the Court with respect to the 28 U.S.C. §§ 1915(e) and 1915A criteria.

There is insufficient information before the Court at this time to make the necessary assessment of plaintiff's claims under the standards promulgated by *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997), and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986), as issue has yet to be joined. Therefore plaintiff's motion for appointment of counsel is denied without prejudice at this time.

The Clerk of the Court is directed to file plaintiff's papers, and to cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon the

named defendants without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint.

SO ORDERED.

Dated: May 22, 2007  
Rochester, New York

Charles J. Siragusa

CHARLES J. SIRAGUSA  
United States District Judge